

// A regular meeting of the Council of the City of Lynchburg was held on the 10th day of May, 2005, at 7:30 P.M. in the Council Chamber, City Hall, Carl B. Hutcherson, Jr., President, presiding. Council Member Seiffert gave the Invocation. The Pledge of Allegiance was led by the Police Officer in attendance. The following Members were present:

Present: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert, Hutcherson

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Absent:

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// Copies of the minutes of the April 26 (two meetings), 2005 meetings, having been previously furnished Council, reading was dispensed with, and on motion of Council Member Seiffert, seconded by Council Member Johnson, Council by the following recorded vote approved the minutes as presented:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert, Hutcherson

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Noes:

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// In the matter of Police - General, City Council Report #2 was considered. On motion of Council Member Seiffert, seconded by Council Member Johnson, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-05-045, as presented, amending the FY 2005 City/Federal/State Aid Fund and appropriating \$100,000, fully reimbursable, for the Project Safe Neighborhoods Grant Program:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert, Hutcherson

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Noes:

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// In the matter of Schools - General, a public hearing was held to receive the views and/or nominations of the citizens of Lynchburg concerning the Council's appointments or re-appointments for three positions on the Lynchburg School Board, one from each school district. At the request of Mayor Hutcherson, the Clerk read into the record the names of the current School Board members whose terms will expire on June 30: District 1, Ellis M. Frankfort; District 2, Sterling A. Wilder; and District 3, Harry Smith, Jr. The Clerk then read into the record the names of volunteers who have applied to-date to serve on the School Board: District 1—Alex Bell, Robert A. Hopkins, John Randolph Nelson, Bryan E. Tiller, and Elizabeth M. Weiland; District 2—Jason Patrick Campbell, Joseph T. Catlett, Jr., Eric A. Chisholm, Denise Mae Crews, Eyvonne Green, Atul Gupta, and George D. Hatmaker; District 3—Troy W. Deacon, Eugene A. Tweedy, Jr., and Glyn K. Wooldridge. There was no one present who wished to speak. On motion of Council Member Dodson, seconded by Council Member Helgeson, Council by the following recorded vote agreed to continue the public hearing until May 24 to allow more time for citizens to apply for the positions on the School Board:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert, Hutcherson

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Noes:

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// In the matter of Community Planning – Historic Districts, a public hearing was held regarding designating all properties fronting on the 1300 and 1400 blocks of Pierce Street and including the

properties known as 1518 and 1600 Fourteenth Street as a local Historic District (HD) to be known as the Spencer-Johnson Renaissance Historic District. City Planner Tom Martin provided a brief summary of the request. Historic Preservation Commission (HPC) Chair Hal Devening outlined the request and stated that both the HPC and the Planning Commission unanimously voted to support the designation. Lynchburg Historical Foundation (LHF) Executive Director Sally Schneider stated that the LHF Board unanimously supports the designation and cited the improvements being made to houses in the lower Rivermont area following the designation of Rivermont Avenue as a historic district. Anne Spencer House Museum and Garden Chair Hugh Jones stated that the Board of the Anne Spencer House Museum unanimously supports the designation. Anne Howard Spencer, whose husband Chauncey Spencer was one of the founders of the Tuskegee Airmen, spoke in support of the request. Six other individuals spoke in support of the request citing the historical importance of the area, most notably that it contains the home and gardens of the famous poet, Anne Spencer, that many of the leading figures of the Harlem Renaissance, i.e., James Weldon Johnson, W.E.B. Dubois, Paul Robeson, Langston Hughes, and George Washington Carver, were houseguests of Anne and Edward Spencer, and that a couple of decades later, Dr. Walter Johnson, a local physician, honed the skills of future tennis legends Arthur Ashe and Althea Gibson at his home/tennis court. Pamela Calloway, speaking for a number of residents of the 1300 and 1400 block of Pierce Street, along with four other Pierce Street residents spoke in opposition to the request stating that the request for a historic district designation was not initiated by the residents, too many of the houses have been altered to the point that they no longer qualify for historic designation, that a historic district designation might take away their rights as homeowners, costs involved with compliance of historic district restrictions, having to receive prior approval before making changes to the exterior of their homes, and the financial burden to residents on fixed incomes being required to replicate their houses according to the way they were originally built. Some went on to say that the City should focus its efforts on ways to reduce the crime in this area. There was no one else present who wished to speak to this item, and the public hearing was closed. In response to Council questioning, HPC Chair Hal Devening stated that a member of the HPC requested that the Pierce Street area be designated as a historic district following the Chauncey Spencer plaque dedication. In response to questioning regarding eligibility for historic tax credits, HPC Secretary Annette Chenault stated that in order to be eligible for tax credits, the house had to be deemed contributing to the history/architecture of the historic district and that there were several structures within those blocks of Pierce Street that are not contributing and therefore not eligible for tax credits. Ms. Chenault did note that a homeowner would only be held by restrictions of the era in which their home was constructed and that as long as any exterior changes were in

line with the era of the construction of the house, those changes would be appropriate. Council Members Ceasor Johnson and Jeff Helgeson stated that they would not support the request since it was not initiated by the Pierce Street residents and because of the opposition expressed to each of them when they visited with residents of the neighborhood. Other Council Members commented that more dialogue was needed with the Pierce Street residents to explain what a historic district designation would mean to each of them. Some Council Members expressed an interest in discussing this further at a work session, while other Council Members expressed an interest in maybe meeting with the neighborhood. Following discussion, and on motion of Council Member Dodson, seconded by Council Member Gillette, Council by the following recorded vote agreed to postpone until the June 28 work session further discussion regarding this item:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert, Hutcherson

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Noes:

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// In the matter of Public Works – Street Vacation, a public hearing was held regarding City Council Report #5 regarding adopting an Ordinance vacating a 145 foot unnamed alley on the west side of Langhorne Road between Memorial Avenue and Rose Lane. Rev. Irvin Ward, Pastor of Bountiful Blessings Church, outlined the request and asked for approval. There was no one else present who wished to speak to this item, and the public hearing was closed. Council Member Seiffert questioned if the Church would be willing to donate some right-of-way at the corner of Langhorne/Memorial Avenues for a turn lane. City Manager Kimball Payne explained that the vacation of the right-of-way was a condition of the Conditional Use Permit approved by City Council earlier, but that staff would look at the site and speak with the Church to determine what could be done at this intersection. On motion of Council Member Dodson, seconded by Council Member Seiffert, Council by the following recorded vote adopted Ordinance #O-05-046, as presented, vacating a 145 foot unnamed alley on the west side of Langhorne Road between Memorial Avenue and Rose Lane:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert, Hutcherson

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Noes:

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// In the matter of Community Planning – Zoning Amendments/Zoning, a public hearing was held regarding City Council Report #6 regarding amending the Future Land Use Map at 821, 823 Mercury Street and 824 Wiggington Road from Low Density Residential to Medium Density Residential, and the petition of Gantt Properties Inc. to rezone approximately 1.8 acres from R-2, Low-Medium Density Residential District, to R-3, Medium Density, Two-Family Residential District. City Planner Tom Martin provided a brief summary of the request. Mr. Joe Gantt outlined the request and asked for approval. There was no one else present who wished to speak to this item,

and the public hearing was closed. On motion of Council Member Helgeson, seconded by Council Member Seiffert, Council by the following recorded vote adopted Ordinance #O-05-047, as presented, amending the Future Land Use Map at 821, 823 Mercury Street and 824 Wiggington Road from Low Density Residential to Medium Density Residential:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert, Hutcherson

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Noes:

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On motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote adopted Ordinance #O-05-048, as presented, approving the petition of Gantt Properties Inc. to rezone approximately 1.8 acres from R-2, Low-Medium Density Residential District, to R-3, Medium Density, Two-Family Residential District:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert, Hutcherson

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Noes:

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On motion of Council Member Seiffert, seconded by Council Member Gillette, Council by the following recorded vote adopted Resolution #R-05-049, as presented, approving the petition of Gantt Properties Inc. for a Conditional Use Permit to allow the construction of a town home development on Wiggington Road:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert, Hutcherson

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Noes:

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// In the matter of Public Works – Street Vacation, a public hearing was held regarding City Council Report #7 regarding adopting an Ordinance vacating a storm drainage easement in Block F, Wyndhurst Subdivision. Mr. Steve Lawson, the City's Real Estate Manager, provided a brief summary of the request. There was no one else present who wished to speak to this item, and the public hearing was closed. On motion of Council Member Seiffert, seconded by Council Member Helgeson, Council by the following recorded vote adopted Ordinance #O-05-050, as presented, vacating a storm drainage easement in Block F, Wyndhurst Subdivision:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert, Hutcherson

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Noes:

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// In the matter of Taxicabs, a public hearing was held regarding a request from taxicab owners/drivers for a rate increase as outlined in City Council Report #8. Mr. Jeremiah Gardner, Gray Top Cab, stated that the cab companies were seeking a rate increase due to high gas prices, increased vehicle registration fees, and increases in vehicle maintenance costs. Mr. Gardner also presented a revised rate proposal, including requiring a \$5.00 deposit in advance. Ms. Portia Douglas-Davis spoke in support of a rate increase and the \$5.00 deposit. There was no one else present who wished to speak to this item, and the public hearing was closed. City Manager

Kimball Payne stated that staff would like time to review the revised proposal, and suggested that this item be postponed to a future work session to allow time for staff to have a meeting with all of the cab company owners to try and reach an agreement on a rate increase proposal to present to City Council. Mr. Payne stated that he would attempt to have everything ready for the June work session.

// In the matter of FY2005 Budget, a public hearing was held regarding City Council Report #9 regarding amending the FY 2005 Budgets and appropriating funds to implement revenue, expenditure and transfer adjustments for the General Fund Operating Budget, the City/Federal/State Aid Fund, the E-911 Special Revenue Fund, the Fleet Services Fund, The City Capital Projects Fund, the School Operating Fund, the Schools Capital Projects Fund, the Comprehensive Services Act Fund, the Self-Insurance Fund, the Regional Detention Center Fund, the Solid Waste Fund, the Water Fund, and the Sewer Fund. Assistant Director for Financial Services Donna Witt provided an overview regarding the request. There was no one else present who wished to speak to this item, and the public hearing was closed. On motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote introduced and laid over to a later meeting for final action Ordinance #O-05-051, as presented, amending the FY 2005 Budgets and appropriating funds to implement revenue, expenditure and transfer adjustments for the General Fund Operating Budget, the City/Federal/State Aid Fund, the E-911 Special Revenue Fund, the Fleet Services Fund, The City Capital Projects Fund, the School Operating Fund, the Schools Capital Projects Fund, the Comprehensive Services Act Fund, the Self-Insurance Fund, the Regional Detention Center Fund, the Solid Waste Fund, the Water Fund, and the Sewer Fund:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert, Hutcherson

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Noes:

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// In the matter of Community Planning – Community Development, City Council Report #10 regarding approving the Community Development Block Grant (CDBG) 2005-2010 Consolidated Plan was considered. Mayor Hutcherson read the following statement: “As it is no secret for several months I have endured an investigation by the federal government. I regret the inconvenience caused to my colleagues on City Council by the federal government having subpoenaed them to the grand jury on May 19, 2005. If there is a council meeting on this matter, I will not participate in it. A legal defense fund has been established to help cover the potential costs of defending against such an investigation. One of the trustees of the fund, Mr. Mundy, has business before the Council tonight on behalf of the Lynchburg Community Action Group and I will excuse myself from voting on this matter. I will continue to do my best to serve this wonderful city and to face this tremendous personal challenge.” Administrative and Grants Coordinator Melva

Walker presented a brief overview regarding the 2005-2010 Community Development Block Grant (CDBG) Consolidated Plan, explaining that the Plan had been updated to incorporate the changes made at the April 26 work session. On motion of Council Member Johnson, seconded by Council Member Seiffert, Council by the following recorded vote adopted Resolution #R-05-052, as presented, approving the Community Development Block Grant (CDBG) 2005-2010 Consolidated Plan:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert	6
Noes:	0
Abstention: Hutcherson	1

// In the matter of Railroads, City Council Report #11 regarding support of continued federal funding of AMTRAK was considered. City Manager Kimball Payne provided an overview regarding the request. On motion of Council Member Johnson, seconded by Council Member Gillette, Council by the following recorded vote adopted Resolution #R-05-053, as presented, supporting continued federal funding of AMTRAK and efforts to promote and enhance rail transportation in the Commonwealth and the nation:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert, Hutcherson	7
Noes:	0

// In the matter of FY2006 Budget/CIP, City Council Report #12 regarding approval of the FY2006 Budget and Capital Improvements Program (CIP) was considered. Council Member Gillette read the following statement: "Part of the City's 2005-2006 budget includes an appropriation of funds for the City's employee health care plan. Piedmont Community Health Plan currently administers the City's employee health care plan. I do not have any type of business relationship with Piedmont Community Health Plan. However, I do have a business relationship with Centra Health which is one of the shareholders of Piedmont Community Health Plan. While I do not believe my relationship with Centra Health creates a conflict of interest it is possible that I am a member of a group that will indirectly be affected by the adoption of the City's budget. However, I believe I am able to participate in this matter fairly, objectively and in the public interest. Therefore, I will participate in the discussion of and vote on the City's budget." Council Member Helgeson stated that since he had argued for a real estate tax reduction, that he would be voting against the budget including monetary donations to agencies. Council Member Helgeson also stated that he would not vote in support of the CIP at this time since some of the items have not been properly addressed. Council Member Seiffert stated that he would be voting against donations to agencies. On motion of Council Member Johnson, seconded by Vice Mayor Foster, Council by the following recorded vote introduced and laid over to a later meeting for final action Budget Ordinance #O-05-054, as

presented, adopting the FY 2006 Proposed General Fund Operating Budget (excluding Contributory Agency expenditures) and appropriating \$150,578,233 for this budget:

Ayes: Dodson, Foster, Gillette, Johnson, Seiffert, Hutcherson

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Noes: Helgeson

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On motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote introduced and laid over to a later meeting for final action Budget Ordinance #O-05-055, as presented, adopting the FY 2006 Mandated and Contractual Contributory Agencies Budget and appropriating \$5,257,404 for this budget:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert, Hutcherson

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Noes:

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On motion of Vice Mayor Foster, seconded by Council Member Johnson, Council by the following recorded vote introduced and laid over to a later meeting for final action Budget Ordinance #O-05-056, as presented, adopting the FY 2006 Central Virginia Area Agency on Aging Budget and appropriating \$15,000 for this budget:

Ayes: Dodson, Foster, Gillette, Johnson, Hutcherson

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Noes: Helgeson, Seiffert

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On motion of Council Member Dodson, seconded by Council Member Johnson, Council by the following recorded vote introduced and laid over to a later meeting for final action Budget Ordinance #O-05-057, as presented, adopting the FY 2006 Central Virginia Community College Board and Related Operations Budget and appropriating \$2,032 for this budget:

Ayes: Dodson, Foster, Gillette, Johnson, Seiffert, Hutcherson

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Noes: Helgeson

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On motion of Council Member Johnson, seconded by Vice Mayor Foster, Council by the following recorded vote introduced and laid over to a later meeting for final action Budget Ordinance #O-05-058, as presented, adopting the FY 2006 Court Appointed Special Advocate Budget and appropriating \$10,557 for this budget:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert, Hutcherson

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Noes:

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On motion of Council Member Johnson, seconded by Council Member Dodson, Council by the following recorded vote introduced and laid over to a later meeting for final action Budget Ordinance #O-05-059, as presented, adopting the FY 2006 Greater Lynchburg Transit Company Budget and appropriating \$749,293 for this budget:

Ayes: Dodson, Foster, Gillette, Johnson, Seiffert, Hutcherson

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Noes: Helgeson

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On motion of Council Member Johnson, seconded by Vice Mayor Foster, Council by the following recorded vote introduced and laid over to a later meeting for final action Budget Ordinance #O-05-060, as presented, adopting the FY 2006 Region 2000 Economic Development Partnership Budget and appropriating \$65,269 for this budget:

Ayes: Dodson, Foster, Gillette, Johnson, Seiffert, Hutcherson 6

Noes: Helgeson 1

On motion of Council Member Johnson, seconded by Council Member Gillette, Council by the following recorded vote introduced and laid over to a later meeting for final action Budget Ordinance #O-05-061, as presented, adopting the FY 2006 Robert E. Lee Soil & Water Conservation District Budget and appropriating \$10,000 for this budget:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert, Hutcherson 7

Noes: 0

On motion of Vice Mayor Foster, seconded by Council Member Gillette, Council by the following recorded vote introduced and laid over to a later meeting for final action Budget Ordinance #O-05-062, as presented, adopting the FY 2006 Virginia Legal Aid Society Budget and appropriating \$10,000 for this budget:

Ayes: Dodson, Foster, Gillette, Johnson, Hutcherson 5

Noes: Helgeson, Seiffert 2

On motion of Council Member Gillette, seconded by Council Member Seiffert, Council by the following recorded vote introduced and laid over to a later meeting for final action Budget Ordinance #O-05-063, as presented, adopting all other FY 2006 Proposed Operating Fund Budgets and appropriating the sums for each fund:

Ayes: Dodson, Foster, Gillette, Johnson, Seiffert, Hutcherson 6

Noes: Helgeson 1

On motion of Council Member Johnson, seconded by Council Member Seiffert, Council by the following recorded vote introduced and laid over to a later meeting for final action Ordinance #O-05-064, as presented, adopting the FY 2006-2010 Capital Improvement Program:

Ayes: Dodson, Foster, Gillette, Johnson, Seiffert, Hutcherson 6

Noes: Helgeson 1

On motion of Vice Mayor Foster, seconded by Council Member Johnson, Council by the following recorded vote introduced and laid over to a later meeting for final action Ordinance #O-05-065, as presented, adopting the FY 2006 Capital Budget and appropriating \$16,634,796 for the City Capital Projects Fund; \$7,158,720 for the Schools Capital Projects Fund; \$300,000 for the

Airport Capital Projects Fund; \$3,386,000 for the Water Capital Projects Fund; and \$9,650,000 for the Sewer Capital Projects Fund:

Ayes: Dodson, Foster, Gillette, Johnson, Seiffert, Hutcherson

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Noes: Helgeson

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// In the matter of City Council, Council Member Dodson asked that City Council amend its earlier action designating Fifth Street and Memorial Avenue as "Martin Luther King, Jr. Boulevard" by reducing the length of the Boulevard. Mr. Dodson stated that he has received a petition signed by over 100 individuals demanding that Memorial Avenue be removed from the designation. Mr. Dodson went on to say that Memorial Avenue is named in honor of 42 Lynchburg soldiers who died in World War I and there is concern that placing an overlay over the street could detract from the honor of the fallen war heroes. Council Member Helgeson agreed, and noted that no one that lives or works on Memorial Avenue asked for or supported the designation. Mr. Helgeson along with Council Member Seiffert also voiced concern that Memorial Avenue residents and business owners were not properly notified by the City regarding the inclusion of Memorial Avenue in the designation. Council Member Gillette stated that adding Dr. King's name to the street would not lessen the World War I soldiers' accomplishments and that the City adds names to memorials all the time, citing Monument Terrace as an example. Mr. Gillette went on to say that he viewed the designation as a commitment to the civil rights movement and to shorten the route would be the wrong message to send. Mayor Hutcherson, Vice Mayor Foster along with Council Member Johnson stated that City Council needs to stand firm on its earlier decision, and reaffirmed that the City is not changing street names, business or personal addresses, or street signs. Following discussion, Council Member Dodson made a motion, seconded by Council Member Helgeson, to amend the resolution adopted on March 8, 2005, regarding designating Fifth Street and Memorial Avenue as "Martin Luther King, Jr. Boulevard" by asking that the designation end at the Lakeside Drive/Memorial Avenue intersection in front of the King Center, and Council by the following recorded vote defeated the motion:

Ayes: Dodson, Helgeson, Seiffert

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Noes: Foster, Gillette, Johnson, Hutcherson 4

// In the matter of City Council, City Attorney Walter Erwin provided an update regarding a petition requesting a referendum on changing City Council elections from May to November and on whether or not the City should have an elected school board. Mr. Erwin advised that the petitions were filed in the Circuit Court Clerk's Office on April 22, and that each petition must be signed by 10% of the City's registered voters as of January 1 of this year, or 3,908 voters. Mr. Erwin then outlined the various deadlines that must be met in order to place the referendum on the November ballot. In

response to questioning, Mr. Erwin stated that the petition regarding changing City Council elections from May to November did not stipulate even or odd years.

// Mayor Hutcherson stated that he would excuse himself from the next portion of the agenda and left the meeting at 10:40 p.m.

// Vice Mayor Foster stated that there was an item not on the agenda.

// City Attorney Walter Erwin read the following statement: "I asked City Council to hold a closed meeting concerning the subpoenas that some of the members of Council received as part of a federal grand jury investigation. My request seems to have created a great deal of public speculation about what would be discussed. It has been erroneously reported that the purpose of the closed meeting was to discuss grand jury testimony. This was never the purpose of the meeting. The purpose of the meeting was to advise Council that because the grand jury proceeding is a criminal investigation I am unable to give the members of council legal advice concerning this matter. Even though any of members of Council that have received subpoenas have been advised by federal officials that they are not the targets of the investigation and are simply appearing as witnesses I am not able to advise the members of Council in this matter. I apologize for any inconvenience or difficulties my request may have caused Council."

// On motion of Council Member Johnson, seconded by Council Member Gillette, Council by the following recorded vote elected to hold a closed meeting to consider appointments to Council-appointed Boards and Commissions pursuant to Section 2.2-3711(A)(1), Code of Virginia (1950), as amended:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert

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Noes:

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Absent: Hutcherson

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// Mayor Hutcherson joined the closed meeting at 10:45 p.m.

// The meeting was re-opened to the public.

// Council Member Helgeson made the following motion:

WHEREAS, the Council of the City of Lynchburg has convened a closed meeting on this date, pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712 of the Code of Virginia requires a certification by City Council that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Lynchburg certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this

certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by Council.

The Motion was seconded by Vice Mayor Foster, and Council by the following recorded vote adopted the motion:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert, Hutcherson

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Noes:

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// The meeting was recessed at 10:55 P.M. to May 24, at 1:00 P.M., to conduct a work session regarding several items.

Clerk of Council